

**THE GEORGE WASHINGTON UNIVERSITY
Washington, DC**

**MINUTES OF THE REGULAR MEETING
OF THE FACULTY SENATE HELD ON
APRIL 14, 2000, IN FUNGER HALL 103**

The meeting was called to order by Vice President Lehman at 2:30 p.m.

Present: President Trachtenberg, Vice President Lehman, Registrar Selinsky, and
Parliamentarian Pagel; Dean Phillips; Professors Berkowitz, Boswell,
Captain, Castleberry, Duff, Gallo, Granger, Haque, Hoare, Johnston,
McAleavey, Moses, Nagy, Park, Pelzman, Robinson, Sheldon, Simon,
Stephanic, Wilmarth, and Zaghloul

Absent: Deans Futrell, Harding, Lefton, Mazzuchi, Riegelman, Williams, and Young;
Professors Agnew, Cawley, Griffith, Harrington, and Mergen

APPROVAL OF THE MINUTES

The minutes of the regular meeting of March 10, 2000, were approved as distributed.

INTRODUCTION OF RESOLUTIONS

President Trachtenberg introduced "A RESOLUTION OF APPRECIATION (99/7)" to Professor Lilien F. Robinson, whose term as Chair of the Executive Committee of the Faculty Senate had reached its statutory limit. The President read the Resolution of Appreciation and then presented it to Professor Robinson, who received a round of applause. Professor Robinson thanked the Senate for this citation. The Resolution was adopted by acclamation. (Resolution 99/7 is attached.)

OLD BUSINESS:

**REINTRODUCTION AND CONSIDERATION OF RESOLUTION (99/6), "A
RESOLUTION TO ENDORSE THE POLICIES AND PROCEDURES GOVERNING
SEXUAL HARASSMENT COMPLAINTS"**

Professor Gallo, Co-Chair of the Ad Hoc Committee, moved reintroduction of Resolution 99/6, and the motion was seconded. Professor Gallo explained the three substantive changes in the Policy Statement which the Committee recommended. First, the issue of academic freedom was vigorously debated by the Committee. On one side, the faculty desired a safe harbor in the classroom, most particularly from hostile environment allegations, the threat of which might produce a chilling effect on how faculty conduct classes, and, in the extreme, some faculty wanted total classroom exclusion from definition of sexual harassment. On the other side, there is the students' guaranteed right to learn in a hostile-free environment, but in the extreme, a single student exercising this right may be offended by classroom

discussion, and claim sexual harassment when that discussion had sound pedagogical reasons. She said that the Committee dismissed both extremes as being neither legal nor right. What is clear is that, under existing law, classroom conduct can now be the subject of a harassment claim. It was clear to the Committee that sexual harassment is outside the protected bounds of academic freedom and that the exercise of academic freedom is not sexual harassment, so the Committee agreed to create a neutral zone by incorporating the following language in the Policy Statement: "expressions that are reasonably designed, and reasonably intended, to contribute to academic inquiry, education or debate, on issues of public concern shall not be construed as sexual harassment." Secondly, was the issue on prevention of sexual harassment and dissemination of information. The Committee recommended assigning a major responsibility to the University to prevent sexual harassment, with a significant increase in programming for University members. The Committee did not opt to include examples of sexual harassment because of the Committee's concern that they might be interpreted by some people as the "only" examples of sexual harassment. Another consideration by the Committee for inclusion of the strong educational component is the status of law which requires universities to provide educational programming for all university members. Thirdly, was the issue related to consensual relationships. The Committee looked to the University community and to sexual harassment policies from other universities to inform its recommendations, the latter having offered no consistent position. The Committee generally disagreed with the position taken in the Interim Policy where all relationships between University members in supervisory or evaluative positions with those they supervise or evaluate are discouraged. The Committee agreed that all relationships between faculty and students they evaluate, and between staff and those they supervise should not be forbidden or discouraged. However, the Committee cautions those people in supervisory and evaluative positions of the dangers of both consensual, as well as nonconsensual, relationships with those they supervise or evaluate, that such relationships may invite complaints of sexual harassment, abuse of authority, and conflict of interest. Professor Gallo urged adoption of Resolution 99/6. She then recognized Executive Associate Dean Edward Caress to speak about the procedural part of the Policy.

Dean Caress explained that the major proposed change to the procedures that came out of meetings of the Ad Hoc Committee with Law School faculty, the PEAFC Committee, and outside legal counsel involved the make-up of the Special Panel that would hear cases when an informal resolution cannot be found that is satisfactory to one or more of the three parties: the complainant, the respondent, or the University. There are two formulations of the make-up of the Special Panel Membership. In the Interim document and the first proposed document from the Ad Hoc Committee, the Special Panel was comprised of a mixed status-group makeup of the panel. In the revised document there is the formulation of a one-status group makeup of the panel, resulting from meetings with the Law School faculty. The Ad Hoc Committee met April 13, 2000 and revisited the issue once again. After lengthy discussion, the Committee was evenly split, half favoring a 3-2 panel, with the respondent having the majority, and the other half favoring the formulation found in the current Interim Policy which calls for a 2-2-1 panel, with the "1" coming from the third status group. As a result, the Committee decided to leave it to the wisdom of the Senate to determine what recommendation will be made to the Administration on the make-up of the Special Panel in a mixed-status situation. Personally,

Dean Caress said that there is no "magic" that makes one formulation more likely than another to achieve the goal of a fair and proper decision. Provided that the panel members are well-trained and address the issues responsibly and thoughtfully, any formulation of the Special Panel can achieve this desired result. It may be that any formulation of the panel can also pass a legal test, but clearly the more one-sided a panel appears to the outside world, the less likely that the outside world will feel that a fair decision can be reached.

Professor McAleavey then moved to introduce an amendment to redefine the composition of the Special Panel. Professor Wilmarth raised a point of order to ask if it was not appropriate with our general procedures to allow the Senate Standing Committee, PEAf, to make its report first before amendments are introduced from the floor. After conferring with the Parliamentarian, the President said that apparently there is no rule on this procedure, and he indicated that Professor McAleavey should proceed.

Professor McAleavey then moved the following amendments, consisting of two parts:

- (1) Section C. 1 (p.11): Within five business days of receiving the written request to proceed with a formal complaint, (see A.2, above) the Associate Vice President for Human Resources (or designee) will appoint the five-member panel from the pool. Three of the panel members will be from the same group as the Respondent (either faculty member or staff employees) and the other two panel members will be from the same group as the Complainant (faculty members, staff employees, or students). ~~Five faculty members will be appointed when the Respondent is a faculty member. Five staff members will be appointed when the Respondent is a staff member.~~ (Rest of paragraph is unchanged.) Corrected
3/5/00
- (2) Section B.1 (p.10): A complaint filed under Appendix C will be heard by a five-member panel selected by the Associate Vice President for Human Resources (or designee), as described in Section C. Panelists will be selected from a pool of 30 ~~20~~, ten of whom are faculty members appointed by the Vice President for Academic Affairs, with the in- concurrence ~~with~~ of the Council of Deans and the Faculty Senate Executive Committee ~~appoints ten faculty members; ten of whom are staff employees appointed by the Vice President for Administrative and Information Services appoints ten staff employees; and ten of whom are students appointed by the Dean of Students.~~

The motion was seconded.

A discussion followed on the composition of the Special Panel. Professors Wilmarth, (on behalf of the PEAf Committee) Cheh, Banzhaf, and David Robinson spoke against mixed panels. Professors Selmi, Harrison, Salamon, Nagy, Sheldon, Simon, Moses, Park, and Johnston spoke in favor of mixed panels.

Professor Park moved to amend the first amendment, as follows: "Four of the panel members will be from the same group as the Respondent (either faculty members or staff employees) and one panel member will be from the same group as the ~~Complainant~~ Complainant (faculty

corrected
5/5/00

members, staff employees, or students).”

The motion was seconded. The question was called on the Park amendment to the first amendment, and the amendment passed. The question was then called on the McAleavey amendments (first and second)), as amended, and the amendments passed.

Professor Wilmarth, on behalf of the PEAFF Committee, moved the following amendments:

(1) Par. 3 (p.2): “Accordingly, in an academic setting expression that is ~~reasonably~~ designed or ~~reasonably~~ intended in good faith to contribute to academic inquiry, education or debate on issues of public concern shall not be construed as sexual harassment.”

(2) Par. 1 (p.4): “A member of the University community who is uncomfortable with one or more instances of conduct of a sexual nature that may be inappropriate (even if the person is unsure whether the conduct constitutes sexual harassment), may discuss the matter with the person who has engaged in the behavior or with his or her department chair, dean, staff supervisor, or dean of students. Alternatively, or in addition, the offended person may seek University-level assistance by initiating consultation regarding the matter, by contacting the Office of the Vice President and General Counsel.”

The motion was seconded.

Professor Gallo spoke against the first amendment. The question was called on the first amendment, and the amendment failed. A discussion of the second amendment followed by Professors Gallo, Park, D. Robinson, L. Robinson, Simon, and Ms. Wooldridge. The question was called on the second amendment, and the amendment passed.

Due to the lateness of the hour, Professor Wilmarth moved to adjourn further discussion of Resolution 99/6 to the next Senate meeting, and the motion was seconded. The question was called, and the motion passed. The President pointed out that it might be necessary to call a Special Meeting of the Senate to finish consideration of Resolution 99/6 during the current Senate Session, and Professor Lilien Robinson indicated that the Executive Committee would set a date.

GENERAL BUSINESS

I. NOMINATION FOR ELECTION OF NOMINEES TO THE EXECUTIVE COMMITTEE FOR THE 2000-01 SENATE SESSION

On behalf of the Nominating Committee, Professor Robinson, Convener, moved the nomination of the following nominees for election to the Executive Committee for the 2000-01 Session: Professors John G. Boswell (GSEHD), as Chair; Yvonne Captain (CSAS), Salvatore F. Divita (SBPM), Linda L. Gallo (SMHS), Robert J. Harrington (SEAS), Joseph Pelzman (EDIA), and Arthur E. Wilmarth, Jr. (GWLS). The President called for nominations from the

floor. No nominations were made from the floor, and the nominees were elected.

II. NOMINATION FOR ELECTION OF NOMINEES TO THE DISPUTE RESOLUTION COMMITTEE

On behalf of the Executive Committee, Professor Robinson moved the nomination for re-election of the following nominees to the Dispute Resolution Committee for three-year terms, commencing May 1, 2000: Professors Andrew Altman, Valentina Harizanov, Mary K. Sidawy, Paul M. Swiercz, and Mona E. Zaghloul. No nominations were made from the floor, and the slate was approved. Professor Robinson then moved the nomination for re-election of Professor Michael Selmi, as Chair of the Dispute Resolution Committee, for a one-year term. No nominations were made from the floor, and Professor Selmi was elected as Chair of the Dispute Resolution Committee.

III. NOMINATION FOR APPOINTMENT BY THE PRESIDENT TO ADMINISTRATIVE COMMITTEES

On behalf of the Executive Committee, Professor Robinson moved the nominations for appointment by the President to the following Administrative Committees: Judicial System: David W. McAleavey (Chair), Neal E. Chalofsky, and Salman O. Kazmi; University Hearing Board: David J. Goodenough, Irving J. Katz, Susan LeLacheur, and Vasti Torres; Marvin Center Program Board: Youngwu Rong; Marvin Center Governing Board: Gary Confessore, Leslie B. Jacobson, and Bradley W. Sabelli; Committee on Student Publications: Don S. Lee, Amy Mazur, Stephen McGraw, Faye Moskowitz, W. Douglas Maurer, and David A. Rowley. No nominations were made from the floor, and the nominees were elected.

IV. REPORT OF THE EXECUTIVE COMMITTEE

The Report of the Executive Committee by Professor Robinson, Chair, is enclosed.

V. NOMINATION FOR ELECTION TO THE JOINT FACULTY-ADMINISTRATION TASK FORCE ON THE PROPOSED COLLEGE OF PROFESSIONAL STUDIES

On behalf of the Executive Committee, Professor Robinson nominated Professor Erik Winslow (SBPM) for election to the Joint Task Force on the Proposed College of Professional Studies. No nominations were made from the floor, and Professor Winslow was elected.

VI. INTERIM REPORTS OF SENATE COMMITTEE CHAIRS

No interim reports were made.

VII. BRIEF STATEMENTS (AND QUESTIONS)


Professor Nagy said that he had three comments to make. First, he thought the faculty

should have been given the opportunity to voice their opinions about the closing of the University because of the World Bank/IMF demonstrations. He said that he had to cancel his two teach-in classes, which possibly could have been taught on another campus. President Trachtenberg replied that recommendations to close the University were made by municipal authorities, the police and Secret Service, and that parents were concerned about the safety of their children. Secondly, Professor Nagy noted that at the last meeting he had asked if the meetings of the Joint Task Force on the proposed College of Professional Studies would be open to faculty, and Vice President Lehman indicated at that time that he would have to take that up with the Chair of the Task Force. Having not received an answer, Professor Nagy requested that the faculty be advised by e-mail as soon as possible if they may attend these meetings. Thirdly, he noted that the Secretary of State has been invited to give the keynote address at Commencement and to receive an Honorary Degree, and he thought that that raised some troubling issues. He suggested that a discussion be held on these kinds of matters. President Trachtenberg responded that there is a process that is followed in making decisions about keynote speakers and the awarding of Honorary Degrees. Professor Castleberry, Chair of the Honors and Academic Convocations Committee, pointed out that the list of nominees is recommended by faculty, and then presented to the Board of Trustees, and he invited Professor Nagy to serve on the Committee.

Professor Park said that he had been asked by Professor Griffith, who could not be present today, to request that the Executive Committee inquire into the activities of Versity .com, which is currently maintaining a Website with notes from various GWU courses, without any prior notice or permission. Professor Park said that, according to Professor Griffith, GWU's General Counsel's Office, with which discussions have been held about this, is reluctant to take action similar to that taken at Yale, where challenged course-materials were taken down upon issuance of a "cease-and-desist" letter from Yale's General Counsel. President Trachtenberg suggested that this matter should be given to an external group, not the Senate. Professor Robinson said that this matter will be placed on the Executive Committee's agenda.

ADJOURNMENT

Upon motion made and seconded, President Trachtenberg adjourned the meeting at 4:55 p.m.


Brian Selinsky
Secretary

A RESOLUTION OF APPRECIATION (99/7)

WHEREAS, Lilien F. Robinson has earned the highest level of respect, gratitude, and admiration of the University community; and

WHEREAS, her term of service on the Executive Committee of the Faculty Senate has reached its statutory limit; NOW, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the following citation be issued:

In recognition of her wide range of contributions to The George Washington University community during 36 years of remarkable service; and

In recognition of her 36 years of dedicated service to her students which is characterized by excellence in teaching, commitment to scholarship, and adherence to high academic standards throughout her progression from Teaching Fellow to Professor of Art; and

In recognition of her 22 years of service to her faculty in the Department of Art where she provides exceptional leadership as Chair; and

Especially in recognition of her sustained and outstanding service to the entire University faculty which is characterized by major accomplishments due, in part, to her objectivity, ability to listen, persistence, patience, reasoned thinking, fairness, kindness, and diplomacy during 22 years on the Faculty Senate, 10 years on the Executive Committee serving 8 years as Chair, 6 years as Chair of the Committee on Appointment, Salary, and Promotion Policies, 3 years as Chair of the Committee on Administrative Matters as They Affect the Faculty, 2 years as Chair of the Committee on Professional Ethics and Academic Freedom, and 1 year as Chair of the Committee on Educational Policy;

THE FACULTY SENATE

OF

THE GEORGE WASHINGTON UNIVERSITY

CITES

PROFESSOR LILIEN F. ROBINSON

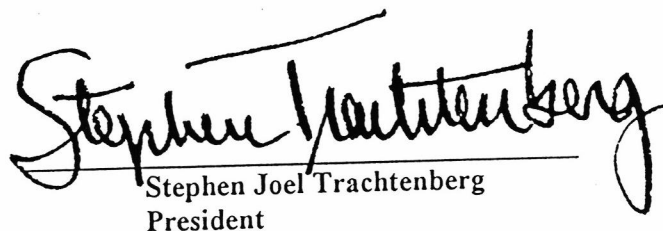
FOR

DISTINGUISHED SERVICE



April 14, 2000

Adopted by acclamation
April 14, 2000


Stephen Joel Trachtenberg
President

Interpretation of policy

The Office of the Vice President and General Counsel is available to provide advice on questions regarding interpretation of this policy and these procedures.

Appendix A: Consultation Procedure

1. The consultation consists of one or more meetings between the Coordinator and the person who requests the consultation.
2. The Coordinator will provide a copy of the sexual harassment policy and procedures and respond to questions about them. The Coordinator may address and clarify the matter with the person, assist in developing strategies to deal with the matter, recommend counseling or other assistance, or determine that no further action is necessary.
3. The Coordinator will prepare a record of the consultation, which will be maintained by the Office of the Vice President and General Counsel. The record will be considered confidential to the full extent consistent with fairness and the University's need to take preventive and corrective action.
4. When the Coordinator has reason to believe that criminal conduct may have occurred or that action is necessary to protect the health or safety of any individual, the University may, as the Office of the Vice President and General Counsel determines, refer the matter to appropriate authorities.
5. Although consultation may be requested and an informal resolution procedure pursued within any reasonable

Appendix B: Informal Resolution Procedure

1. A person who requests consultation (the "Person") may pursue an informal resolution.
2. The Coordinator will ask the Person to provide a factual account of the alleged harassment. The Coordinator may assist the Person to prepare a signed statement. If the Person declines to provide a signed statement, the Coordinator will prepare a written summary of the Person's oral allegations.
3. The Coordinator will furnish the Respondent with a copy of the signed statement or the written summary if there is no signed statement. The Coordinator will inform the Respondent of the allegation in sufficient detail to permit an informed response.
4. The Coordinator will investigate the alleged harassment as promptly as circumstances permit, will afford the Respondent a reasonable opportunity to respond to the allegation, and will advise the parties and persons interviewed or notified about the alleged harassment of the need for discretion and confidentiality.
5. Upon initiating an investigation, the Coordinator will inform University officials who would be charged with recommending corrective and disciplinary action ("responsible University officials") of the informal resolution procedure.
6. Upon concluding the investigation, the Coordinator will report on the matter to the responsible University official. The Coordinator will make every effort to resolve the matter informally. The resolution of the matter may include corrective or disciplinary action provided the Respondent consents. Any such corrective or disciplinary action shall be imposed by the responsible University official and be

within his or her discretion and consistent with his or her authority.

7. A responsible official will notify the parties of the disposition of the informal resolution procedure to the extent consistent with University policies, appropriate considerations of privacy and confidentiality, fairness, and applicable law.
8. The Coordinator will report the outcome of the informal resolution procedure to the responsible University official. If the matter has not been resolved informally, the Person who alleged harassment, the Respondent, or a responsible University official may initiate the formal complaint procedure.

Appendix C: Formal Complaint Procedure -- Special Panels

A. Initiation of special panel procedure

1. If a formal complaint is governed by the special panel complaint procedure, the party requesting to proceed with a formal complaint must file a written request with the Coordinator. The request must be filed within 15 business days after receipt of information from a responsible University official of the disposition of the informal resolution procedure (See Appendix B). The written request for a formal hearing must include a factual statement of the sexual harassment alleged and may include a statement of the relief requested.
2. The Coordinator will send a copy of the complaint to the responding party and the Associate Vice President for Human Resources (or designee). The respondent will be given sufficient particularities as to the alleged facts that the respondent may reasonably investigate the charge and prepare his or her defense, with reasonable and appropriate recesses and continuances being provided to all parties.
3. An aim of the special panel process is to complete, if feasible, the formal complaint procedure within 45 business days of the Coordinator's receipt of the formal complaint request.

B. Establishment of special panels

1. A complaint filed under Appendix C will be heard by a five-member panel selected by lot by the Associate Vice President for Human Resources (or designee), as described in Section C. Panelists will be selected from a pool of 30, ten of whom are faculty members appointed by the Vice President for Academic Affairs, with the concurrence of the Council of Deans and the Faculty Senate Executive Committee; ten of whom are staff employees appointed by the Vice President for Administrative and Information Services; and ten of whom are students appointed by the Dean of Students.

2. Each appointee to the pool ordinarily will serve a two year term. The appointing official should stagger the appointments so that, if feasible, the terms of not more than five of his or her appointees expire in any year.
3. An appointee to the pool (but not to a panel) may be removed and replaced at any time, at the discretion of the appointing official. The appointing official should promptly fill vacancies in the pool, according to the procedure in Section B.1 above.
4. The Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations and the Director of the Office of Equal Employment Activities, or their designees, will conduct mandatory training of all appointees to the pool at the time of appointment and periodically thereafter; provided that no pool member shall receive such training while serving on a special panel. Training will address roles and responsibilities of panel members, complaint procedures, applicable policies, and other techniques and standards pertinent to the complaint and hearing process.

C. Selection of panel

1. Within five business days of receiving the written request to proceed with a formal complaint (see A.2, above), the Associate Vice President for Human Resources (or designee) will appoint the five-member panel from the pool. Four of the panel members will be from the same group as the Respondent (either faculty members or staff employees) and one panel member will be from the same group as the Complainant (faculty members, staff employees, or students). No member of a faculty member's department or of a staff member's administrative departmental organization may serve on the special panel. Within the five-day period, the Associate Vice President for Human Resources (or designee) will notify the Coordinator of the names of the special panel members.

[AS AMENDED BY THE FACULTY SENATE, April 14, and April 21, 2000]

AS RECOMMENDED BY THE AD HOC COMMITTEE ON POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS

SEXUAL HARASSMENT POLICY AND PROCEDURES

First principles of this policy

The George Washington University is committed to maintaining a positive climate for study and work, in which individuals are judged solely on relevant factors, such as ability and performance, and can pursue their activities in an atmosphere that is free from coercion and intimidation. The University mission statement provides that the University "values a dynamic, student-focused community stimulated by cultural and intellectual diversity and built upon a foundation of integrity, creativity, and openness to exploration of new ideas." The University is committed to free inquiry, free expression, and the vigorous discussion and debate on which advancement of its mission depends. Sexual harassment is destructive of such a climate and will not be tolerated in the University community.

Objectives

This policy and these procedures aim to inform members of the University community what sexual harassment is and what they can do should they encounter or observe it. The University prohibits sexual harassment by any student, staff member, faculty member, and others in the University community; encourages reporting of sexual harassment before it becomes severe or pervasive; identifies accessible persons to whom sexual harassment may be reported; requires persons (whether faculty, staff or student) in supervisory or evaluative roles to report sexual harassment complaints to appropriate officials; prohibits retaliation against persons who bring sexual harassment complaints; assures confidentiality to the full extent consistent with the need to resolve the matter

appropriately; assures that allegations will be promptly, thoroughly, and impartially addressed; and provides for appropriate corrective action.

The ultimate goal is to prevent sexual harassment, through education and the continuing development of a sense of community. But if sexual harassment occurs, the University will respond firmly and fairly. As befits an academic community, the University's approach is to consider problems within an informal framework when appropriate, but to make formal procedures available for use when necessary.

What sexual harassment is

The University has adopted the following definition of sexual harassment, substantially derived from Equal Employment Opportunity Commission and Department of Education statements:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is explicitly or implicitly made a term or condition of academic participation or activity, educational advancement, or employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions that affect the individual; (3) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or limiting participation in University programs; or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment. Sexual harassment may occur without regard to either party's gender.

Nothing in this policy limits academic freedom, guaranteed by the Faculty Code, which is a pre-eminent value of the University. This policy shall not be interpreted to abridge academic freedom. Accordingly, in an academic setting expression that is reasonably designed or reasonably intended to contribute to academic inquiry, education or debate on issues of public concern shall not be construed as sexual harassment.

A person who commits sexual harassment in violation of this policy will be subject to disciplinary action, up to and including expulsion or termination.

Prevention; dissemination of information

The University is committed to preventing and remedying sexual harassment of students, faculty, and staff. To that end, this policy and these procedures will be disseminated in the University community. In addition, the University will sponsor programs to inform students, faculty, and staff about sexual harassment and the problems it causes; advise members of the University community of their rights and responsibilities under this policy and these procedures; and train personnel in the administration of the policy and procedures.

Consensual relationships

Relationships that are welcomed by the parties do not entail sexual harassment, and are beyond the scope of this policy. Whether a relationship is in fact welcomed will be gauged according to the circumstances; special risks are involved when one party -- whether a faculty member, staff member or student -- is in a position to evaluate or exercise authority over the other. Even when both parties previously consented to a sexual relationship, a charge of sexual harassment may be based on subsequent conduct that one of them does not welcome. Members of the University community are cautioned that consensual relationships, as well as relationships that are not consensual, can in some circumstances entail abuse of authority, conflict of interest, or other adverse consequences that may be addressed in accordance with pertinent University policy and practice.

What to do

Three procedural avenues of redress are available to members of the University community who believe that sexual harassment has occurred -- consultation, informal resolution, and formal complaint. Often, concerns can be resolved through consultation or informally resolved. If the matter is not satisfactorily resolved through the consultation or informal resolution procedure, a formal complaint may be initiated.

Consultation

A member of the University community who is uncomfortable with one or more instances of conduct of a sexual nature that may be inappropriate (even if the person is unsure whether the conduct constitutes sexual harassment), may discuss the matter with the person who has engaged in the behavior or with his or her department chair, dean, staff supervisor, or Dean of Students. Alternatively, or in addition, the offended person may seek University-level assistance by initiating consultation regarding the matter, by contacting the Office of the Vice President and General Counsel. That Office will assign a Coordinator to the case and arrange an initial consultation. The Coordinator will provide a copy of the sexual harassment policy and procedures, respond to questions about them, assist in developing strategies to deal with the matter, and work in accordance with the procedure set forth in Appendix A.

Alternatively, the individual may discuss the matter with the Director of the Office of Equal Employment Activities, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, any of whom may determine the need to refer the matter to the Office of the Vice President and General Counsel, for assignment to a Coordinator.

Informal resolution procedure

An informal resolution procedure, which is initiated in the same manner as a consultation, entails an investigation by the Coordinator of the charges in accordance with Appendix B.

Formal complaint procedure

The formal complaint procedure is available when the informal resolution procedure fails to resolve satisfactorily the allegation of sexual harassment. The person who made the allegation of sexual harassment (the "Complainant"), the person against whom the allegation was made (the "Respondent") or a responsible University official may initiate a formal complaint.

A formal complaint is initiated by submitting to the Coordinator a signed, written request to proceed with a formal complaint. The request is due within 15 business days after the person

receives from the responsible University official a statement of the disposition of the informal resolution procedure. The Coordinator will inform the requesting party of the process that will be followed and provide a copy of the applicable procedure.

The Code of Student Conduct will govern the formal complaint procedure when both parties are students or when the Respondent is a student or a student organization, regardless of the status of the Complainant. The applicable staff grievance procedures will govern the formal complaint procedure when both parties are staff members. The formal complaint will be heard by a special panel, in accordance with Appendix C, when: (a) the Complainant is a student and the Respondent a faculty or staff member; (b) the Complainant is a faculty member and the Respondent a staff member; (c) the Complainant is a staff member and the Respondent a faculty member; or (d) the Complainant and Respondent are faculty members.

Outcomes

If the informal resolution procedure or formal complaint procedure results in a determination that sexual harassment occurred, the findings and recommendations shall be referred to the appropriate University official for imposition of corrective action, including sanctions that the official is authorized to impose; provided that an informal resolution procedure may not result in a sanction unless the Respondent has consented thereto. A range of relevant considerations should be taken into account in determining the extent of sanctions, such as the severity of the offense, the effect of the offense on the victim and on the University community, the consequences of the sanction to the Respondent, and the offender's record of service and past offenses. Sanctions may include, but are not limited to, oral or written warning, suspension, expulsion, or termination of employment; provided that a tenured faculty member may not be dismissed except in accordance with the procedures set forth in the Faculty Code, Section F. The University may impose interim corrective action at any time, if doing so reasonably appears required to protect a member of the University community.

Redress of disciplinary action

Nothing in this policy or these procedures shall be deemed to revoke any right that any member of the University community may have to seek redress of a disciplinary action, such as a faculty member's right to maintain a grievance under the Faculty Code.

Confidentiality

The Coordinator and other investigators and decision-makers will strive to maintain confidentiality to the full extent appropriate, consistent with the need to resolve the matter effectively and fairly. The parties, persons interviewed in the investigation, persons notified of the investigation, and persons involved in the proceedings will be advised of the need for discretion and confidentiality. Inappropriate breaches of confidentiality may result in disciplinary action.

Retaliation

Retaliation against a person who reports, complains of, or provides information in a sexual harassment investigation or proceeding is prohibited. Alleged retaliation will be subject to investigation and may result in disciplinary action up to and including termination or expulsion.

False claims

A person who knowingly makes false allegations of sexual harassment, or who knowingly provides false information in a sexual harassment investigation or proceeding, will be subject to disciplinary action.

Time limits

The University aims to administer this policy and these procedures in an equitable and timely manner. Persons making allegations of sexual harassment are encouraged to come forward without undue delay. Established time limits may be extended for good cause, upon request.

2. The Coordinator will notify the parties of the panelists' names. Within three business days of receipt of the notice, either party may submit to the Associate Vice President for Human Resources a written objection to designation of any panel member. The objection must clearly state the reasons for the objection. The Associate Vice President may, at his or her discretion, replace a challenged panelist with another member of the pool from the same status group.
3. A designated panelist who has or may reasonably be perceived as having a conflict of interest or is otherwise unable to serve on a special panel shall recuse himself or herself, and notify the Associate Vice President for Human Resources of the recusal.

D. Scheduling hearing

1. The special panel members will meet within five business days after their appointment, to select a chairperson and set the hearing date and time. The hearing will be held within a reasonable time, normally 20 business days, after the special panel is appointed. Panel members may not communicate with either party outside the presence of the other party.
2. The special panel chairperson will notify the parties of the hearing date, time, and location at least seven business days before the hearing. Within two business days after receiving notice of the hearing, a party with a scheduling conflict may submit to the chairperson a request for postponement. The chairperson, after consulting the special panel members, has discretion to reschedule the hearing. All parties will be notified as soon as feasible if the hearing is rescheduled.
3. If a party does not appear for the hearing within 30 minutes after the scheduled time, the special panel will decide whether to reschedule the hearing or proceed.

E. Conduct of hearing

1. The special panel chairperson will preside at the hearing and decide procedural issues. Only persons participating in the proceeding may be present during the hearing except as otherwise provided in these procedures. The hearing will be conducted in the following sequence:
 - (a) Preliminary matters. The chairperson will introduce the parties, their counsel or advisors, and the special panel members; review the order of proceedings; explain procedures that govern use of the tape recorder; and present a brief summary of the complaint.
 - (b) Opening statements. The party who requested the hearing may make an opening statement. The responding party may then make an opening statement. Each opening statement shall not exceed 15 minutes.
 - (c) Presentation of complaint. The party who requested the hearing may present to the panel testimony, witnesses, documents or other evidence. Following the testimony of the party who requested the hearing, and of each witness, the responding party may ask questions.
 - (d) Response to complaint. The party who responded to the complaint shall have a right to know prior to the hearing the contents of and the names of the authors of any written statements that may be introduced against him or her, and to rebut unfavorable inferences that might be drawn from such statements. The responding party may present testimony, witnesses, documents or other evidence to the panel. Following the testimony of the responding party, and of each witness, the party who requested the hearing may ask questions. Following the testimony of the responding party, and of each witness, the party who requested the hearing may ask questions.

- (e) Closing statements. The party who requested the hearing may make a closing statement. The responding party may then make a closing statement. Each closing statement shall not exceed 15 minutes.
- 2. Special panel members may ask questions of parties or witnesses at any time during the hearing.
- 3. The hearing will not be conducted according to strict rules of evidence. However, the special panel chairperson may limit or exclude irrelevant or repetitive testimony, and may otherwise rule on what evidence may be offered.
- 4. When the hearing cannot be completed in one session, the special panel chairperson may continue the hearing to a later date and time.
- 5. The hearing will be recorded on audiotape. Either party may obtain from the Coordinator a copy of the recording at reasonable cost, on written request.

F. Witnesses

- 1. Each party (and the panel) may ask witnesses to testify at the hearing, but no person may be directed to testify other than the Complainant and any other person who gave evidence that has been considered by the panel. Information from persons able but unwilling to appear shall not be considered by the panel. Information from persons who cannot appear shall be subject to a ruling of admissibility by the Chair. The Chair may take reasonable steps to protect the witnesses against abuse or harassment, short of excusing their appearances.
- 2. At least three business days before the hearing, each party must provide the chairperson, the Coordinator and the other party a list of witnesses he or she intends to present at the hearing.
- 3. The special panel may request that additional witnesses appear. The Coordinator will, if feasible, arrange for the appearance of these witnesses.

4. Each party is responsible for notifying its witnesses of the hearing date, time, and location. A hearing will not necessarily be postponed because a witness fails to appear.
5. All witnesses will be excluded from the hearing before and after their testimony. A witness may be recalled at the discretion of the special panel chairperson.
6. A University employee must obtain permission from his or her supervisor to be absent from work to appear at a hearing. Employees will be paid while appearing at a hearing during working hours, but not for other time spent on the complaint during or outside working hours.
7. A student must obtain permission from his or her professor to be absent from class to appear at a hearing.
8. Supervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission to appear at a hearing. If an employee or student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Coordinator.

G. Advisors

1. Each party may be accompanied by not more than two advisors, who may be University employees or other persons the party selects; provided that not more than one of the advisors shall be acting in an attorney capacity.
2. No advisor may speak on behalf of the party, make an opening or closing statement, present testimony or examine witnesses. The advisor's role is limited to assisting the party to prepare for the hearing and providing the party private advice during the hearing.
3. Notwithstanding the preceding paragraph, when a party is a faculty member and has active representation, the other party will also be allowed active representation. In that event each party shall identify one attorney, or other advisor, who throughout the proceeding may (but

shall not be required to) speak on behalf of the party, make opening and closing statements, and examine witnesses.

4. A Complainant or Respondent who plans to be accompanied by an attorney or other advisor at the hearing must notify the Coordinator and the other party at least five business days before the hearing.
5. The special panel may request or the University may provide a University-furnished attorney or other advisor to be present at any hearing to advise the special panel.
6. The University may have an observer present at any hearing.

H. Decision after hearing

1. After the hearing, the special panel will meet in closed session to review the hearing and make a decision on the complaint, consistent with the substantial weight of the evidence. The decision must be approved by a majority of special panel members. If the special panel concludes that sexual harassment occurred, it may recommend corrective or disciplinary action. The recommendation must be approved by a majority of the special panel members.
2. The special panel report of its decision must be in writing and set forth findings of fact, conclusions, and, where appropriate, recommendations for corrective or disciplinary action.
3. The special panel will submit the report of its decision to the Associate Vice President for Human Resources within ten business days after the hearing ends.
4. If the special panel concludes that sexual harassment occurred, the Associate Vice President for Human Resources will forward a copy of the special panel report to a University official responsible for implementing corrective or disciplinary action. After reviewing the special panel report, a responsible University official will decide whether to impose corrective or disciplinary

action, consistent with that official's authority. Before issuing a final decision, the responsible University official will advise the Respondent of the proposed sanction, will permit the Respondent to review all parts of the special panel report on which the sanction is based, and will give the Respondent a reasonable opportunity to reply before the sanction is imposed. A responsible University official will notify the parties of the disposition, to the extent consistent with University policies, appropriate considerations of privacy and confidentiality, and applicable law. A responsible University official will send a copy of the special panel report to the parties (at their home addresses of record, by courier, overnight mail or certified mail, return receipt requested). The report sent to the parties may omit portions, to maintain consistency with University policies regarding confidentiality.

I. Review of special panel decision

1. A party dissatisfied with a special panel decision may submit a request for review to the Associate Vice President for Human Resources, who will transmit the request to the vice president(s) responsible for oversight of the status groups to which the parties belong. For example, when the Complainant is a staff member and the Respondent a faculty member, the Vice President for Administrative and Information Services and the Vice President for Academic Affairs will jointly review the matter; when Complainant and Respondent are both faculty members, the Vice President for Academic Affairs will review the matter.
2. The request for review must be in writing and set forth reasons why the special panel decision should be modified or overturned. The review must be based on the hearing record and may not present new evidence or testimony.
3. The request for review must be submitted within 15 business days of the party's receipt of the special panel decision. If the request is not received by

then, the special panel decision will be the final University decision on the complaint.

4. The Vice President(s) will strive to issue a final decision on the review within 20 business days following submission of the request for review. The decision of the Vice President(s) shall be the final decision on the complaint within the University.
5. When the special panel decision is final, or when the final decision on a review is issued, the Coordinator will provide a copy of it to the University official(s) responsible for implementing corrective or disciplinary action. Any corrective or disciplinary action taken shall be within the discretion and consistent with the authority of the responsible University official.

REPORT OF THE EXECUTIVE COMMITTEE

APRIL 14, 2000

PROFESSOR LILIEN F. ROBINSON, CHAIR

1. GRIEVANCE

The Executive Committee recently received a grievance from the School of Business and Public Management. In accordance with the Faculty Code, the Executive Committee, through one of its members, is gathering information in order to make its own determination that all reasonable efforts to achieve a resolution through informal consultation have been exhausted. If this step is not successful, the Executive Committee will appoint a Special Mediator to conduct an informal investigation of the matter in an attempt to effect a mutually satisfactory resolution.

2. MAY SENATE MEETING

Please note that the May Senate meeting will be held on Friday, May 5, 2000. The May Senate meeting marks the beginning of the new Senate Session (2000-01). Election of Chairs and members of Senate Standing Committees for the 2000-01 Session will take place at the May meeting.

3. ANNUAL REPORTS FOR THE 1999-00 SESSION

Annual Reports from the Senate Standing Committees for the current Session will be received at that time. Chairs are requested to note any continuing business which would be a matter for next year's Committee. Those Senate members who are not returning as Chairs are asked to give their Committee files to the new Chairs.

4. ANNOUNCEMENTS

The Joint Executive Committees of the 1999-00 and 2000-01 Sessions will meet on April 21st to nominate the new Chairs and members of the Senate Standing Committees and to set the agenda for the May 5th Senate meeting. Resolutions for the May agenda should be submitted before the April 21st Executive Committee meeting.

2.

I would like to thank all of the members of the Senate for the work that you have accomplished on behalf of our colleagues within the University, it has been a successful year and has been completed with spirit.

I would also like to acknowledge President Trachtenberg and Vice President Lehman, who have been extremely helpful to us on critical issues and helped us to a successful resolution, and it's been a positive experience.

I extend heartfelt thanks to my colleagues on the Executive Committee, they have worked very hard. Particularly Professor Gallo, who is probably chagrined that she ever accepted it. They've done a wonderful job.

I'd also like to thank Doris Trone and Sue Campbell. They're always dedicated, they do excellent work; let us know what we need to do and keep us on schedule. Thank you very much.

THE GEORGE WASHINGTON UNIVERSITY
Washington, DC

The Faculty Senate

April 3, 2000

The Faculty Senate will meet on Friday, April 14, 2000, at 2:10 p.m., in the Alumni House, First Floor, 1925 F Street, NW.

AGENDA

1. Call to order
2. Short recess for the purpose of having a group photograph taken of the 1999-00 Faculty Senate

1. Approval of the minutes of the regular meeting of March 10, 2000, as previously distributed

2. Old Business:

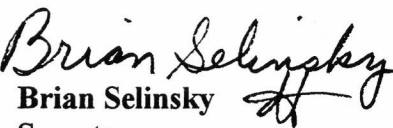
Reintroduction and consideration of Resolution (99/6), "A RESOLUTION TO ENDORSE THE POLICIES AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS," postponed to April 14, 2000, Senate meeting; Professor Linda L. Gallo and Executive Associate Dean Edward Caress, Co-Chairs, Ad Hoc Committee to Review Interim Policy and Procedures Governing Sexual Harassment Complaints (Resolution 99/6 with accompanying revised Report attached)

4. Introduction of Resolutions

5. General Business:

- (a) Nomination for election of nominees to the Executive Committee for the 2000-01 Session proposed by the Nominating Committee (nominees to be announced)
- (b) Nomination for election of nominees to the Dispute Resolution Committee for three-year terms, commencing May 1, 2000 (nominees to be announced)
- (c) Nomination for appointment by the President to the following Administrative Committees: Judicial System: David W. McAleavey (Chair), Neal E. Chalofsky, and Salman O. Kazmi; University Hearing Board: David J. Goodenough, Irving J. Katz, Susan LeLacheur, and Vasti Torres; Marvin Center Program Board: Yongwu Rong; Marvin Center Governing Board: Gary Confessore, Leslie B. Jacobson, and Bradley W. Sabelli; Committee on Student Publications: Don S. Lee, Amy Mazur, Stephen McGraw, Faye Moskowitz, W. Douglas Maurer, and David A. Rowley

- (d) Report of the Executive Committee: Professor Lilien F. Robinson, Chair
 - (e) Interim Reports of Senate Committee Chairs
 - (f) Other Matters
8. Brief Statements (and Questions)
9. Adjournment


Brian Selinsky
Secretary

**A RESOLUTION TO ENDORSE THE POLICY AND PROCEDURES
GOVERNING SEXUAL HARASSMENT COMPLAINTS (99/6)**

WHEREAS, the Faculty Senate, in a meeting on December 11, 1998, passed a resolution to refer the Interim Policy and Procedures Governing Sexual Harassment Complaints to an Ad Hoc Committee for review; and

WHEREAS, the Ad Hoc Committee has reviewed the Interim Policy and Procedures and, based upon wide-ranging consultation, the study of sexual harassment policies from other institutions, the study of sexual harassment literature and court cases, has recommended changes to the Interim Policy and Procedures both in the interests of clarification and simplification and in substance; and

**WHEREAS, the Faculty Senate resolution of December 11, 1998, directed the Ad Hoc Committee to report its recommendations with respect to any changes to the Interim Policy and Procedures Governing Sexual Harassment Complaints to the Faculty Senate;
NOW, THEREFORE**

**BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON
UNIVERSITY**

That the Faculty Senate endorses the Policy and Procedures Governing Sexual Harassment Complaints as recommended by the Ad Hoc Committee.

**Ad Hoc Committee to Review Interim Policy and
Procedures Governing Sexual Harassment Complaints
January 12, 2000**

Postponed, March 10, 2000, to April 14, 2000

Report of the Ad Hoc Committee to Review the Interim Policy and Procedures on
Sexual Harassment Complaints

To

The Faculty Senate of the George Washington University

January 12, 2000

BACKGROUND: The Faculty Senate on December 11, 1998 passed a resolution calling for the appointment of an Ad Hoc Committee on Policies and Procedures Governing Sexual Harassment Complaints. The Ad Hoc Committee, to be jointly appointed by the Vice President for Academic Affairs and the Chair of the Executive Committee of the Faculty Senate, was to include the Assistant Vice President for Faculty Personnel, the Associate Vice President for Student and Academic Support Services, broad representation from all sectors of the University's academic community with the majority of the membership from the faculty. The Ad Hoc Committee was to review the Interim Policy and Procedures Governing Sexual Harassment. The review was to be informed by wide-ranging consultation, sexual harassment policies of other universities, and literature on sexual harassment in the university setting.

The Ad Hoc Committee was appointed on March 10, 1999 and was called together for its initial meeting on May 18, 1999. The Ad Hoc Committee, with few exceptions, met weekly for ninety minute sessions through January 10, 2000.

THE COMMITTEE WORK: The vision of the Ad Hoc Committee from the outset was to clarify and simplify the Interim Policy and Procedures. This required sorting policy from procedures, eliminating redundant language, organizing the procedural steps in a linear fashion, and in some cases modifying the vocabulary. In addition, the Ad Hoc Committee identified substantive issues in the policy and procedures deserving further discussion. In identifying these issues, the Ad Hoc Committee was aided by: the earlier debate on the floor of the Faculty Senate; consultation with members of the university community (we thank them for their input and time) ; and the present status of the law (we thank Martin Michaelson, outside counsel, for his reasoned advice). After much debate, the Ad Hoc Committee agreed upon one set of rational responses to sexual harassment issues--- certainly not the only responses. Our final recommendations were guided by sexual harassment policies from other universities (11), literature on sexual harassment in the academic setting (eg., AAUP Policy Documents and Reports, Federal Register-Office of Civil Rights-Sexual Harassment Guidance), recent Supreme Court cases, the wise advice of members of the university community, and some measure of common sense.

The first "final " draft of the Policy and Procedures was circulated to the university members with whom we had consulted earlier, to some university members not previously

consulted, and to the Executive Committee of the Faculty Senate with the invitation for comments. The comments of those who responded were considered carefully in the committee and discussed with the commentator. Additional changes were made to the Policy and Procedures resulting in the draft that was approved unanimously by the Ad Hoc Committee on January 10, 2000 and that is recommended to the Faculty Senate.

ADDENDUM to the Report of the Ad Hoc Committee to Review
The Interim Policy and Procedures Governing Sexual Harassment Complaints

To
The Faculty Senate of the George Washington University

March 31, 2000

ADDITIONAL COMMITTEE WORK: The Policy and Procedures Governing Sexual Harassment Complaints as recommended to the Faculty Senate on January 12, 2000 by the Ad Hoc Committee were reviewed informally by members of the PEAFC Committee. This review resulted in 15 suggested amendments (some with subsections) to the Policy and Procedures. Subsequently, a significant number of Law School faculty expressed concern over many of the same issues. Fourteen of the suggested amendments applied to the Procedures section of the document. The Ad Hoc Committee realized at this point that its assumption that the "extensive study" (Faculty Senate minutes, 12/11/98) of the Interim Procedures by two generations of the PEAFC Committee had led to Procedures acceptable to that Committee was incorrect. To address this situation, the Ad Hoc Committee requested a meeting between a subgroup of the Ad Hoc Committee and a subgroup of the Law School faculty to discuss the concerns and, if possible, to resolve them. The Law School faculty graciously agreed. This agreement led to three lengthy meetings (we thank those faculty who participated). After each of these meetings, the Ad Hoc Committee met, discussed the suggested changes, and agreed to accommodate most of the changes. As a result, new or compromise language has been incorporated into the Policy and Procedures Governing Sexual Harassment Complaints. The Ad Hoc Committee believes that the Policy and Procedures as now recommended are much improved.

THE POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT
COMPLAINTS(revised) : attached

[March 30, 2000. AS RECOMMENDED BY
THE AD HOC COMMITTEE ON POLICY AND
PROCEDURES GOVERNING SEXUAL
HARASSMENT COMPLAINTS]

SEXUAL HARASSMENT POLICY AND PROCEDURES

First principles of this policy

The George Washington University is committed to maintaining a positive climate for study and work, in which individuals are judged solely on relevant factors, such as ability and performance, and can pursue their activities in an atmosphere that is free from coercion and intimidation. The University mission statement provides that the University "values a dynamic, student-focused community stimulated by cultural and intellectual diversity and built upon a foundation of integrity, creativity, and openness to exploration of new ideas." The University is committed to free inquiry, free expression, and the vigorous discussion and debate on which advancement of its mission depends. Sexual harassment is destructive of such a climate and will not be tolerated in the University community.

Objectives

This policy and these procedures aim to inform members of the University community what sexual harassment is and what they can do should they encounter or observe it. The University prohibits sexual harassment by any student, staff member, faculty member, and others in the University community; encourages reporting of sexual harassment before it becomes severe or pervasive; identifies accessible persons to whom sexual harassment may be reported; requires persons (whether faculty, staff or student) in supervisory or evaluative roles to report sexual harassment complaints to appropriate officials; prohibits retaliation against persons who bring sexual harassment complaints; assures confidentiality to the full extent consistent with the need to resolve the matter appropriately; assures that allegations will

be promptly, thoroughly, and impartially addressed; and provides for appropriate corrective action.

The ultimate goal is to prevent sexual harassment, through education and the continuing development of a sense of community. But if sexual harassment occurs, the University will respond firmly and fairly. As befits an academic community, the University's approach is to consider problems within an informal framework when appropriate, but to make formal procedures available for use when necessary.

What sexual harassment is

The University has adopted the following definition of sexual harassment, substantially derived from Equal Employment Opportunity Commission and Department of Education statements:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is explicitly or implicitly made a term or condition of academic participation or activity, educational advancement, or employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions that affect the individual; (3) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or limiting participation in University programs; or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment. Sexual harassment may occur without regard to either party's gender.

Nothing in this policy limits academic freedom, guaranteed by the Faculty Code, which is a pre-eminent value of the University. This policy shall not be interpreted to abridge academic freedom. Accordingly, in an academic setting expression that is reasonably designed or reasonably intended to contribute to academic inquiry, education or debate on issues of public concern shall not be construed as sexual harassment.

A person who commits sexual harassment in violation of this policy will be subject to disciplinary action, up to and including expulsion or termination.

Prevention; dissemination of information

The University is committed to preventing and remedying sexual harassment of students, faculty, and staff. To that end, this policy and these procedures will be disseminated in the University community. In addition, the University will sponsor programs to inform students, faculty, and staff about sexual harassment and the problems it causes; advise members of the University community of their rights and responsibilities under this policy and these procedures; and train personnel in the administration of the policy and procedures.

Consensual relationships

Relationships that are welcomed by the parties do not entail sexual harassment, and are beyond the scope of this policy. Whether a relationship is in fact welcomed will be gauged according to the circumstances; special risks are involved when one party -- whether a faculty member, staff member or student -- is in a position to evaluate or exercise authority over the other. Even when both parties previously consented to a sexual relationship, a charge of sexual harassment may be based on subsequent conduct that one of them does not welcome. Members of the University community are cautioned that consensual relationships, as well as relationships that are not consensual, can in some circumstances entail abuse of authority, conflict of interest, or other adverse consequences that may be addressed in accordance with pertinent University policy and practice.

What to do

Three procedural avenues of redress are available to members of the University community who believe that sexual harassment has occurred -- consultation, informal resolution, and formal complaint. Often, concerns can be resolved through consultation or informally resolved. If the matter is not satisfactorily resolved through the consultation or informal resolution procedure, a formal complaint may be initiated.

Consultation

A member of the University community who is uncomfortable with one or more instances of conduct of a sexual nature that may be inappropriate (even if the person is unsure whether the conduct constitutes sexual harassment), and who seeks the University's assistance, may initiate consultation regarding the matter, by contacting the Office of the Vice President and General Counsel. That Office will assign a Coordinator to the case and arrange an initial consultation. The Coordinator will provide a copy of the sexual harassment policy and procedures, respond to questions about them, assist in developing strategies to deal with the matter, and work in accordance with the procedure set forth in Appendix A.

Alternatively, the individual may discuss the matter with the Director of the Office of Equal Employment Activities, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, any of whom may determine the need to refer the matter to the Office of the Vice President and General Counsel, for assignment to a Coordinator.

Informal resolution procedure

An informal resolution procedure, which is initiated in the same manner as a consultation, entails an investigation by the Coordinator of the charges in accordance with Appendix B.

Formal complaint procedure

The formal complaint procedure is available when the informal resolution procedure fails to resolve satisfactorily the allegation of sexual harassment. The person who made the allegation of sexual harassment (the "Complainant"), the person against whom the allegation was made (the "Respondent") or a responsible University official may initiate a formal complaint.

A formal complaint is initiated by submitting to the Coordinator a signed, written request to proceed with a formal complaint. The request is due within 15 business days after the person receives from the responsible University official a statement of the disposition of the informal resolution procedure. The

Coordinator will inform the requesting party of the process that will be followed and provide a copy of the applicable procedure.

The Code of Student Conduct will govern the formal complaint procedure when both parties are students or when the Respondent is a student or a student organization, regardless of the status of the Complainant. The applicable staff grievance procedures will govern the formal complaint procedure when both parties are staff members. The formal complaint will be heard by a special panel, in accordance with Appendix C, when: (a) the Complainant is a student and the Respondent a faculty or staff member; (b) the Complainant is a faculty member and the Respondent a staff member; (c) the Complainant is a staff member and the Respondent a faculty member; or (d) the Complainant and Respondent are faculty members.

Outcomes

If the informal resolution procedure or formal complaint procedure results in a determination that sexual harassment occurred, the findings and recommendations shall be referred to the appropriate University official for imposition of corrective action, including sanctions that the official is authorized to impose. A range of relevant considerations may be taken into account in determining the extent of sanctions, such as the severity of the offense, the effect of the offense on the victim and on the University community, and the offender's record of service and past offenses. Sanctions may include, but are not limited to, oral or written warning, suspension, expulsion, or termination of employment; provided that a tenured faculty member may not be dismissed except in accordance with the procedures set forth in the Faculty Code, Section F. The University may impose interim corrective action at any time, if doing so reasonably appears required to protect a member of the University community.

Redress of disciplinary action

Nothing in this policy or these procedures shall be deemed to revoke any right that any member of the University community may have to seek redress of a disciplinary action, such as a faculty member's right to maintain a grievance under the Faculty Code.

Confidentiality

The Coordinator and other investigators and decision-makers will strive to maintain confidentiality to the full extent appropriate, consistent with the need to resolve the matter effectively and fairly. The parties, persons interviewed in the investigation, persons notified of the investigation, and persons involved in the proceedings will be advised of the need for discretion and confidentiality. Inappropriate breaches of confidentiality may result in disciplinary action.

Retaliation

Retaliation against a person who reports, complains of, or provides information in a sexual harassment investigation or proceeding is prohibited. Alleged retaliation will be subject to investigation and may result in disciplinary action up to and including termination or expulsion.

False claims

A person who knowingly makes false allegations of sexual harassment, or who knowingly provides false information in a sexual harassment investigation or proceeding, will be subject to disciplinary action.

Time limits

The University aims to administer this policy and these procedures in an equitable and timely manner. Persons making allegations of sexual harassment are encouraged to come forward without undue delay. Established time limits may be extended for good cause, upon request.

Interpretation of policy

The Office of the Vice President and General Counsel is available to provide advice on questions regarding interpretation of this policy and these procedures.

Appendix A: Consultation Procedure

1. The consultation consists of one or more meetings between the Coordinator and the person who requests the consultation.
2. The Coordinator will provide a copy of the sexual harassment policy and procedures and respond to questions about them. The Coordinator may address and clarify the matter with the person, assist in developing strategies to deal with the matter, recommend counseling or other assistance, or determine that no further action is necessary.
3. The Coordinator will prepare a record of the consultation, which will be maintained by the Office of the Vice President and General Counsel. The record will be considered confidential to the full extent consistent with fairness and the University's need to take preventive and corrective action.
4. When the Coordinator has reason to believe that criminal conduct may have occurred or that action is necessary to protect the health or safety of any individual, the University may, as the Office of the Vice President and General Counsel determines, refer the matter to appropriate authorities.
5. Although consultation may be requested and an informal resolution procedure pursued within any reasonable time after the events giving rise to the consultation or informal resolution procedure, persons who believe they have been subjected to or who otherwise have observed sexual harassment are encouraged to seek assistance from the University through these procedures promptly.

Appendix B: Informal Resolution Procedure

1. A person who requests consultation (the "Person") may pursue an informal resolution.
2. The Coordinator will ask the Person to provide a factual account of the alleged harassment. The Coordinator may assist the Person to prepare a signed statement. If the Person declines to provide a signed statement, the Coordinator will prepare a written summary of the Person's oral allegations.
3. The Coordinator will notify the Respondent that an allegation has been made. The Coordinator will inform the Respondent of the allegation in sufficient detail to permit an informed response.
4. The Coordinator will investigate the alleged harassment as promptly as circumstances permit, will afford the Respondent a reasonable opportunity to respond to the allegation, and will advise the parties and persons interviewed or notified about the alleged harassment of the need for discretion and confidentiality.
5. Upon initiating an investigation, the Coordinator will inform University officials who would be charged with recommending corrective and disciplinary action ("responsible University officials") of the informal resolution procedure.
6. Upon concluding the investigation, the Coordinator will report on the matter to the responsible University official. The Coordinator will make every effort to resolve the matter informally. The resolution of the matter may include corrective or disciplinary action to which the Respondent consents. Any corrective or disciplinary action shall be imposed by the responsible University official and be within his or her discretion and consistent with his or her authority.

7. A responsible official will notify the person who alleged harassment of the disposition of the informal resolution procedure to the extent consistent with University policies, appropriate considerations of privacy and confidentiality, and applicable law.
8. The Coordinator will report the outcome of the informal resolution procedure to the responsible University official. If the matter has not been resolved informally, the Person who alleged harassment, the Respondent, or a responsible University official may initiate the formal complaint procedure.

Appendix C: Formal Complaint Procedure -- Special Panels

A. Initiation of special panel procedure

1. If a formal complaint is governed by the special panel complaint procedure, the party requesting to proceed with a formal complaint must file a written request with the Coordinator. The request must be filed within 15 business days after receipt of information from a responsible University official of the disposition of the informal resolution procedure (See Appendix B). The written request for a formal hearing must include a factual statement of the sexual harassment alleged and may include a statement of the relief requested.
2. The Coordinator will send a copy of the complaint to the responding party and the Associate Vice President for Human Resources (or designee).
3. An aim of the special panel process is to complete, if feasible, the formal complaint procedure within 45 business days of the Coordinator's receipt of the formal complaint request.

B. Establishment of special panels

1. A complaint filed under Appendix C will be heard by a five-member panel selected by the Associate Vice President for Human Resources (or designee), as described in Section C. Panelists will be selected from a pool of 20, of whom the Vice President for Academic Affairs, in concurrence with the Council of Deans and the Faculty Senate Executive Committee, appoints ten faculty members; and the Vice President for Administrative and Information Services appoints ten staff employees.
2. Each appointee to the pool ordinarily will serve a two year term. The appointing official should stagger the appointments so that, if feasible, the terms of not

more than five of his or her appointees expire in any year.

3. An appointee to the pool may be removed and replaced at any time, at the discretion of the appointing official. The appointing official should promptly fill vacancies in the pool, according to the procedure in Section B.1 above.
4. The Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations and the Director of the Office of Equal Employment Activities, or their designees, will conduct mandatory training of all appointees to the pool at the time of appointment and periodically thereafter; provided that no pool member shall receive such training while serving on a special panel. Training will address roles and responsibilities of panel members, complaint procedures, applicable policies, and other techniques and standards pertinent to the complaint and hearing process.

C. Selection of panel

1. Within five business days of receiving the written request to proceed with a formal complaint (see A.2, above), the Associate Vice President for Human Resources (or designee) will appoint the five-member panel from the pool. Five faculty members will be appointed when the Respondent is a faculty member. Five staff members will be appointed when the Respondent is a staff member. No member of a faculty member's department or of a staff member's administrative departmental organization may serve on the special panel. Within the five-day period, the Associate Vice President for Human Resources (or designee) will notify the Coordinator of the names of the special panel members.
2. The Coordinator will notify the parties of the panelists' names. Within three business days of receipt of the notice, either party may submit to the Associate Vice President for Human Resources a written

objection to designation of any panel member. The objection must clearly state the reasons for the objection. The Associate Vice President may, at his or her discretion, replace a challenged panelist with another member of the pool from the same status group.

3. A designated panelist who has or may reasonably be perceived as having a conflict of interest or is otherwise unable to serve on a special panel shall recuse himself or herself, and notify the Associate Vice President for Human Resources of the recusal.

D. Scheduling hearing

1. The special panel members will meet within five business days after their appointment, to select a chairperson and set the hearing date and time. The hearing will be held within a reasonable time, normally 20 business days, after the special panel is appointed. Panel members may not communicate with either party outside the presence of the other party.
2. The special panel chairperson will notify the parties of the hearing date, time, and location at least seven business days before the hearing. Within two business days after receiving notice of the hearing, a party with a scheduling conflict may submit to the chairperson a request for postponement. The chairperson, after consulting the special panel members, has discretion to reschedule the hearing. All parties will be notified as soon as feasible if the hearing is rescheduled.
3. If a party does not appear for the hearing within 30 minutes after the scheduled time, the special panel will decide whether to reschedule the hearing or proceed.

E. Conduct of hearing

1. The special panel chairperson will preside at the hearing and decide procedural issues. Only persons participating in the proceeding may be present during the hearing except as otherwise provided in these

procedures. The hearing will be conducted in the following sequence:

- (a) Preliminary matters. The chairperson will introduce the parties, their counsel or advisors, and the special panel members; review the order of proceedings; explain procedures that govern use of the tape recorder; and present a brief summary of the complaint.
 - (b) Opening statements. The party who requested the hearing may make an opening statement. The responding party may then make an opening statement. Each opening statement shall not exceed 15 minutes.
 - (c) Presentation of complaint. The party who requested the hearing may present to the panel testimony, witnesses, documents or other evidence. Following the testimony of the party who requested the hearing, and of each witness, the responding party may ask questions.
 - (d) Response to complaint. The party who responded to the complaint may present testimony, witnesses, documents or other evidence to the panel. Following the testimony of the responding party, and of each witness, the party who requested the hearing may ask questions.
 - (e) Closing statements. The party who requested the hearing may make a closing statement. The responding party may then make a closing statement. Each closing statement shall not exceed 15 minutes.
- 2. Special panel members may ask questions of parties or witnesses at any time during the hearing.
 - 3. The hearing will not be conducted according to strict rules of evidence. However, the special panel chairperson may limit or exclude irrelevant or repetitive testimony, and may otherwise rule on what evidence may be offered.

4. When the hearing cannot be completed in one session, the special panel chairperson may continue the hearing to a later date and time.
5. The hearing will be recorded on audiotape. Either party may obtain from the Coordinator a copy of the recording at reasonable cost, on written request.

F. Witnesses

1. Each party may ask witnesses to testify at the hearing, but no person may be compelled to testify.
2. At least three business days before the hearing, each party must provide the chairperson, the Coordinator and the other party a list of witnesses he or she intends to present at the hearing.
3. The special panel may request that additional witnesses appear. The Coordinator will, if feasible, arrange for the appearance of these witnesses.
4. Each party is responsible for notifying its witnesses of the hearing date, time, and location. A hearing will not necessarily be postponed because a witness fails to appear.
5. All witnesses will be excluded from the hearing before and after their testimony. A witness may be recalled at the discretion of the special panel chairperson.
6. A University employee must obtain permission from his or her supervisor to be absent from work to appear at a hearing. Employees will be paid while appearing at a hearing during working hours, but not for other time spent on the complaint during or outside working hours.
7. A student must obtain permission from his or her professor to be absent from class to appear at a hearing.
8. Supervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission to appear at a hearing. If an employee or

student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Coordinator.

G. Advisors

1. Each party may be accompanied by not more than two advisors, who may be University employees or other persons the party selects; provided that not more than one of the advisors shall be acting in an attorney capacity.
2. No advisor may speak on behalf of the party, make an opening or closing statement, present testimony or examine witnesses. The advisor's role is limited to assisting the party prepare for the hearing and providing the party private advice during the hearing.
3. Notwithstanding the preceding paragraph, when a party is a faculty member and has active representation, the other party will also be allowed active representation. In that event each party shall identify one attorney, or other advisor, who throughout the proceeding may (but shall not be required to) speak on behalf of the party, make opening and closing statements, and examine witnesses.
4. A Complainant or Respondent who plans to be accompanied by an attorney or other advisor at the hearing must notify the Coordinator and the other party at least five business days before the hearing.
5. The special panel may request or the University may provide a University-furnished attorney or other advisor to be present at any hearing to advise the special panel.
6. The University may have an observer present at any hearing.

H. Decision after hearing

1. After the hearing, the special panel will meet in closed session to review the hearing and make a decision on the complaint, consistent with the substantial weight of the evidence. The decision must be approved by a majority of special panel members. If the special panel concludes that sexual harassment occurred, it may recommend corrective or disciplinary action. The recommendation must be approved by a majority of the special panel members.
2. The special panel report of its decision must be in writing and set forth findings of fact, conclusions, and, where appropriate, recommendations for corrective or disciplinary action.
3. The special panel will submit the report of its decision to the Associate Vice President for Human Resources within ten business days after the hearing ends.
4. If the special panel concludes that sexual harassment occurred, the Associate Vice President for Human Resources will forward a copy of the special panel report to a University official responsible for implementing corrective or disciplinary action. After reviewing the special panel report, a responsible University official will decide whether to impose corrective or disciplinary action, consistent with that official's authority. Before issuing a final decision, the responsible University official will advise the Respondent of the proposed sanction, will permit the Respondent to review all parts of the special panel report on which the sanction is based, and will give the Respondent a reasonable opportunity to reply before the sanction is imposed. A responsible University official will notify the parties of the disposition, to the extent consistent with University policies, appropriate considerations of privacy and confidentiality, and applicable law. A responsible University official will send a copy of the special panel report to the parties (at their home addresses of record, by courier, overnight mail or certified mail,

return receipt requested). The report sent to the parties may omit portions, to maintain consistency with University policies regarding confidentiality.

I.. Review of special panel decision

1. A party dissatisfied with a special panel decision may submit a request for review to the Associate Vice President for Human Resources, who will transmit the request to the vice president(s) responsible for oversight of the status groups to which the parties belong. For example, when the Complainant is a staff member and the Respondent a faculty member, the Vice President for Administrative and Information Services and the Vice President for Academic Affairs will jointly review the matter; when Complainant and Respondent are both faculty members, the Vice President for Academic Affairs will review the matter.
2. The request for review must be in writing and set forth reasons why the special panel decision should be modified or overturned. The review must be based on the hearing record and may not present new evidence or testimony.
3. The request for review must be submitted within 15 business days of the party's receipt of the special panel decision. If the request is not received by then, the special panel decision will be the final University decision on the complaint.
4. The Vice President(s) will strive to issue a final decision on the review within 20 business days following submission of the request for review. The decision of the Vice President(s) shall be the final decision on the complaint within the University.
5. When the special panel decision is final, or when the final decision on a review is issued, the Coordinator will provide a copy of it to the University official(s) responsible for implementing corrective or disciplinary action. Any corrective or disciplinary action taken

shall be within the discretion and consistent with the authority of the responsible University official.